

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MATTHEW E. FOX,

Plaintiff,

v.

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

Case No. 17-CV-635-JPS

ORDER

Matthew E. Fox filed a complaint in this matter and a motion for leave to proceed *in forma pauperis*. (Docket #1 and #2). The Court may grant the plaintiff's motion to proceed *in forma pauperis* if it determines that: (1) the plaintiff is truly indigent and unable to pay the costs of commencing this action; and (2) the plaintiff's action is neither frivolous nor malicious. 28 U.S.C. §§ 1915(a), (e)(2).

As to the first requirement, the privilege to proceed without payment of costs and fees "is reserved to the many truly impoverished litigants who...would remain without legal remedy if such privilege were not afforded to them." *Brewster v. North Am. Van Lines, Inc.*, 461 F.2d 649, 651 (7th Cir. 1972). The plaintiff has filed an affidavit accompanying the motion to proceed *in forma pauperis*, which demonstrates that he is indigent. (Docket #2). More precisely, the affidavit shows that the plaintiff has been unemployed since 2014 and has been living on savings ever since. *Id.*

The plaintiff's action also is not frivolous or malicious. The

complaint includes an allegation that the Administrative Law Judge ("ALJ") erred in reaching a decision. (Docket #1). If that contention is true, then the Court will be obliged to vacate the ALJ's decision. Thus, the plaintiff's action is neither frivolous nor malicious.

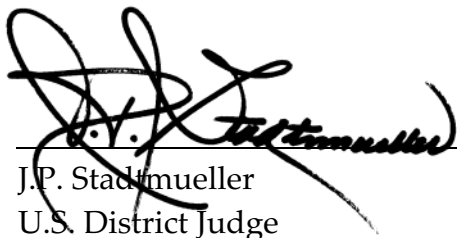
For those reasons, the Court will grant the plaintiff's motion for leave to proceed *in forma pauperis*.

Accordingly,

IT IS ORDERED that the plaintiff's motion for leave to proceed *in forma pauperis* (Docket #2) be and the same is hereby **GRANTED**.

Dated at Milwaukee, Wisconsin, this 22nd day of May, 2017.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge